

Special Village Board Meeting
Thursday, May 22, 2014 - 6:00 p.m.

A special Village Board meeting was held on the above date at 12:00 noon with the following members present:

PRESENT: Mayor Patricia Abato
Trustee Jo Meegan-Corrigan
Trustee Matthew Byrne, Trustee John Meehan

ALSO PRESENT: Virginia Menschner, Village Clerk
Terry Rice, Village Attorney

ABSENT: Trustee Frank Hagen

A) Personnel:

The Mayor said the first item on the agenda is personnel. Charles Sawicki requested the Mayor to appoint two seasonal laborers to be assigned to the Street Department - Mr. Andrew T. Alvarado and Mr. Joseph Bednarski. Both candidates are Suffern residents, Suffern firefighters and attend R.C.C. The rate of pay is \$13.00 an hour and will be effective Tuesday, May 27. Trustee Byrne asked how we determine their rate of pay. The Mayor said they can start tomorrow. Mr. Sawicki said tomorrow? Okay, tomorrow - May 23. Trustee Byrne said and the rate of pay is determined how? Mr. Sawicki said it was negotiated and the Mayor negotiated the money. The Mayor said we had paid in the past \$15.25 for temporary laborers. But as she was looking at the pay scale for when we hire new laborers that is pretty close to what we pay our own full-time help. So she took into consideration that they are not going to be permanent employees in addition to that their duties are going to be on the back of the garbage truck and she came up with a happy medium. Trustee Byrne said and that is what they are going to be doing - they are working on the truck. Mr. Sawicki said they are going to be working on the back of the truck primarily. No benefits. And only three months. Mr. Sawicki said if we did for some reason, under emergency circumstances, needed them for overtime they would get paid overtime. The Mayor said right. Mr. Sawicki said he doesn't see that at this point. Mr. Sawicki said if we had a need for next year - the Mayor said if it was somebody who worked out well it would be nice. Trustee

Byrne said it is because you have two workers who are unavailable for various reasons? Mr. Sawicki said we have one who is out on medical and he has been out for a while and we are somewhat behind as a result of him being out and being backlogged. And at this time of year people try to take their vacation. So we are trying to catch up. And that will be a great help. Trustee Byrne said and the second worker is because there is someone missing as well? Or you are hiring two. Mr. Sawicki said we are hiring two. Trustee Byrne said one is because someone is out on medical and the other is because? Mr. Sawicki said it is a matter of trying to catch up. The Village Clerk said they are short-handed. The Mayor said they are short-handed because most guys are taking their vacation now because they have to use it or lose it. Trustee Byrne asked if we normally do this. The Mayor said yes. Mr. Sawicki said we have in the past and it works out well. And he also wants to qualify the fact that the duration is 90 days. The Mayor said and also it hasn't been announced yet but she heard that that program is going to be available again this year so we probably could get reimbursement for this. Mrs. Mills said they have to go through a program to get that. The Mayor said we can always check into it. Trustee Byrne said some of this is going to fall under this current budget and some of it is going to fall on the June 1 budget he assumes. The Mayor said yes and it will be funded - no changes in the budget. It will be funded. We have money left over this year from employees who resigned and we have the same difference in next year's budget because we budgeted that employee in next year's budget at a rate of pay that is not going to be paid to Mr. Morgan. So the money is already in the budget so it is not going to change the budget in any way. A motion authorizing the hiring was done by Trustee Byrne, seconded by Trustee Meegan-Corrigan.

AYES: Mayor Patricia Abato
Trustee Jo Meegan-Corrigan, Trustee Matthew Byrne
Trustee John Meehan

NOES: None

ABSENT: Trustee Frank Hagen

The Mayor asked Mrs. Cathy Mills if she had some personnel. She said she would like to have the Mayor appoint Kevin Haggerty and Ed Kerner as maintenance workers for the summer season of 2014. The pay would be \$10 per hour. They would be pool maintenance

workers. A motion approving the request was made by Trustee Meehan, seconded by Trustee Meegan-Corrigan.

AYES: Mayor Patricia Abato
Trustee Jo Meegan-Corrigan, Trustee Matthew Byrne
Trustee John Meehan

NOES: None

ABSENT: Trustee Frank Hagen

B) Authorization for Mayor to Sign Tax Warrant:

Village Clerk Virginia Menschner said we have a warrant that has to be authorized by the Board for the Mayor to sign. It is going to be - the current taxes will be \$9,117,384.77. And then we have the pro-rata tax which is \$8,735.93. Releved water \$200,712. Solid Waste will be \$595,009 for this coming year. And the releved solid waste is \$67,465.44 for a grand total of \$9,989,308.04. It sounds like a lot of money but it goes fast. A motion authorizing the Mayor to sign was made by Trustee Meehan, seconded by Trustee Byrne.

AYES: Mayor Patricia Abato
Trustee Jo Meegan-Corrigan, Trustee Matthew Byrne
Trustee John Meehan

NOES: None

ABSENT: Trustee Frank Hagen

The Mayor said she had one other item. As you all know we have been in litigation with Doyle, who was the contractor who did the work at the wastewater treatment plant for the digester cover. She asked Charles to give a quick overview, a quick summary, of what the conditions were.

Mr. Sawicki said as the Mayor had started off, Doyle Contracting was the low bidder for the secondary digester cover for the wastewater treatment plant. There was a certain duration that was in the contract - 250 days to complete the project. Also had a provision for liquidated damages. We did incorporate some extra work as a result of the fact that the tank once it was inspected needed to be recoated and some cracks in it. We negotiated with the contractor and there was a change order executed for that

work. He said he didn't want to go into a lot of detail. But there was some extra work involved and there was some dispute towards the end of the contract on what the contractor was owed by the Village and our engineer, O'Brien and Gere, felt he was owed. There were close out documents and he did not satisfy the contract requirements. As a result, his final application for payment was not processed. The Mayor said it goes on and on. Mr. Sawicki said it is a 2 ½ year saga. The Mayor said it has gone somewhat back and forth. There was some delay on the part of O'Brien and Gere. A lot of confusion. When the day was done what we believed our bill with them was \$104,396. They were not paid due to them not providing us with proper documentation. This has been going on for several years. They stuck a lawsuit on us for \$320,923.80, plus triple damages. There was some work that they did do that we probably are very responsible to pay for. They saved us about \$70,000 with work that they did. If we had to go out and have others do it it would cost us \$70,000 more than having them do it. So it kind of went back and forth with a lot of different little issues but at the end of the day our capital projects fund was \$220,000 of which we allocated \$150,000 to try to settle this lawsuit with. The mediator came in today. We were successful. We are going to settle with them for \$134,000. The reasons that she thinks we should go ahead and settle this is (1) if we go into court we are really rolling the dice and it is going to cost us a lot of money to litigate this whole case. A lot of time. A lot of paperwork and so on and so forth. O'Brien and Gere are paying \$28,500 of the amount that they wanted. So they are actually taking a portion of responsibility for this. But at the end of the day our \$134,000 - we really are not paying for anything that we haven't got services for. The work that they did exceeded \$134,000 so we kind of made out very, very well. And we budgeted \$150,000 and only used \$134,000 to settle the case. With no claims from O'Brien and Gere and it is a completely done deal. No further damages can be acquired through the Village of Suffern from both Doyle and O'Brien and Gere. So that is where we are at now. She said she signed an agreement for that pending Board approval. Trustee Byrne asked if this was a case that Terry is handling. Attorney Rice said yes. It is one that he has been handling. We have partially gone through Discovery. He had been suggesting and they had been saying no with respect to mediation. Finally they agreed, although he wasn't so optimistic this morning. He really felt earlier that if we could just sit down and have a third party and get the parties together we could talk through it. So finally they agreed to mediation. As the mediator says and as all of us know when you walk out of a settlement

nobody is completely happy. Trustee Byrne asked who represented the plaintiff. Attorney Rice said Tom Welby is the attorney for the construction litigation from White Plains. Trustee Byrne said as a side question. We spent \$134,000. The slight amount of money that remains of the \$150,000 allocated to this. What happens to that. The Mayor said it stays in the budget. Trustee Byrne said as long as we don't jump on it and spend it on something else it sounds like a good deal to him. Attorney Rice said from a lawyer's viewpoint he thinks it is a good settlement. We knew we owed at least \$104,000 and there was additional work that we were taking technical objections to and we are buying peace of mind especially with a complicated thing like this. Trustee Byrne asked if there was any other litigation still out there involving this project? Attorney Rice said no. With this particular contractor we have a complete general release for any other claims. There is a general release both for any claims from the beginning of time as well as any future claims arising out of this contract. So we are covered. And we have mutual releases with O'Brien and Gere, the engineer. A motion to authorize the Mayor to enter into a settlement as described was made by Trustee Byrne, seconded by Trustee Meegan-Corrigan.

AYES: Mayor Patricia Abato
Trustee Jo Meegan-Corrigan, Trustee Matthew Byrne
Trustee John Meehan

NOES: None

ABSENT: Trustee Frank Hagen

The Mayor said we started the mediation at 10 o'clock this morning and we just got done ten minutes before you got here.

The Mayor asked for a motion to go into executive session. The motion was made by Trustee Meegan-Corrigan, seconded by Trustee Meehan. Upon vote, the motion was carried.